Conference on Disarmament

4 September 2018

English only

Subsidiary Body 1: Cessation of the Nuclear Arms Race and Nuclear Disarmament

Report

1. In its Decision CD/2119, adopted at the 1442nd plenary meeting on 16 February 2018, the Conference on Disarmament decided to establish, in accordance with Paragraph 23 of its rules of procedure, subsidiary bodies on agenda items 1 (one) to 4 (four), and one on agenda items 5 (five), 6 (six) and 7 (seven), which could also consider emerging and other issues relevant to substantive work of the Conference.

2. The work of Subsidiary Bodies would pursue the following areas and any other areas agreed by the subsidiary bodies, in accordance with the rules of procedure: (a) to reach an understanding on the areas of commonalities in the Conference on Disarmament by taking into consideration all relevant views and proposals past, present and future; (b) deepening technical discussions and broadening areas of agreement, including through the participation, in accordance with the rules of procedure, of relevant experts; (c) consider effective measures, including legal instruments for negotiations.

3. In its Decision CD/2126, adopted at the 1455th plenary meeting on 27 March 2018, the Conference on Disarmament, decided to appoint H.E. Mr. Hasan Kleib, Ambassador of Indonesia, as the Coordinator of the Subsidiary Body 1 - Cessation of the nuclear arms race and nuclear disarmament.

4. Pursuant to the annex of the same decision, the meetings of Subsidiary Body 1 took place on 25 June pm, 26 June pm, 31 July pm, 2 August am and pm, 3 August am, and 9 August pm.

5. In accordance with Paragraph 5 of the Decision CD/2119, the Conference on Disarmament also decided that the report on the progress achieved and agreed on in each subsidiary body would be submitted by its coordinator to the Conference on Disarmament, through the President, for adoption and due reflection in the annual report of the Conference on Disarmament to the General Assembly of the United Nations. The present report is submitted pursuant to that Decision.

6. The first session of Subsidiary Body 1 was focused on deepening technical discussion on the current state of play on relevant issues related to cessation of the nuclear arms race and nuclear disarmament. Dr. John Borrie, Chief of Research, and Dr. John King, Research Fellow of United Nations Institute for Disarmament Research (UNIDIR) made a presentation on the issue and followed by an interactive discussion.

7. Subsequent four sessions of Subsidiary Body 1 were focused on two areas of work, in accordance with Decision CD/2119, namely: to reach an understanding on the areas of commonalities in the Conference on Disarmament by taking into consideration all relevant views and proposals past, present and future; and consider effective measures, including legal instruments for negotiations. The two last sessions of Subsidiary Body 1 were devoted to discussions and considerations of the report.

GE.18-14544(E)

1814544

Please recycle

8. The delegations confirmed their shared commitment to a world without nuclear weapons. However, differences of ways and means to achieve it remain. In spite of these differences, the delegations viewed that the deliberations conducted in Subsidiary Body 1 were in-depth and useful.

9. During the sessions, delegations raised and/or discussed various issues within the scope of Subsidiary Body 1.

10. As tasked by the Decision CD/2119, the Coordinator has drafted and presented a draft report consisting of salient points that transpired during the sessions of the Subsidiary Body 1. However, due to the existence of divergent views and positions of Member States, further work is required to promote convergence among different positions and narrow the gaps on issues relevant to cessation of the nuclear arms race and nuclear disarmament in the Conference on Disarmament.

11. It is therefore the discussions on the issue of cessation of nuclear arms race and nuclear disarmament could be continued during the 2019 session of the Conference on Disarmament.

12. Attached to this report (Annex) is a personal reflection of the Coordinator on the deliberations that took place during the sessions of Subsidiary Body 1. The contents of the Annex are solely the understanding of the Coordinator on various views, perspectives and positions expressed during the discussions and falls within his own responsibility, without prejudice to any Member States' positions.

Annex

Personal Reflection of the Coordinator of Subsidiary Body 1 of the Conference on Disarmament on Cessation of the Nuclear Arms Race and Nuclear Disarmament

A. Deepening technical discussions and broadening areas of agreement, including through the participation, in accordance with the rules of procedure, of relevant experts

1. In order to deepen technical discussion, the Subsidiary body 1 has listened to the presentation by United Nations Institute for Disarmament Research (UNIDIR) on the current state of play of relevant issues related to cessation of the nuclear arms race and nuclear disarmament, as presented by Dr. John Borrie, Chief of Research, and Dr. John King, Research Fellow. The presentation highlighted historical efforts made to regulate or eliminate the use of nuclear weapons through individual, bilateral and multilateral disarmament framework, as well as explore possible steps to be taken to move nuclear disarmament forward. The presentation was followed by an interactive discussion with a view to reaching common understanding on the issues.

2. During the interactive discussion, delegations shared their respective views on the various approaches towards cessation of the nuclear arms race and nuclear disarmament. It was emphasized that Conference on Disarmament as the sole multilateral negotiating body on disarmament issues should continue its efforts to contribute positively to international peace and security. In order for the Conference on Disarmament to fulfil its mandate, some delegations underlined the need for constructive dialogues based on confidence and trust among members.

3. Delegations expressed their appreciation to the two experts for their presentations and support future engagement with UNIDIR.

B. Reaching an understanding on the areas of commonalities in the Conference on Disarmament by taking into consideration all relevant views and proposals past, present and future

4. Delegations who are parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) reaffirmed the view that it is the cornerstone of the global nuclear non-proliferation and nuclear disarmament regime, and stressed its role in preventing vertical and horizontal proliferation of nuclear weapons, and the achievement of nuclear disarmament in accordance with article VI of the Treaty. It was noted that the maintenance of international peace, security and stability, and the achievement of a world free of nuclear weapons as part of an order based on the international law, would require the engagement of all states in an inclusive manner.

5. Approaches towards nuclear disarmament were highlighted during this session. Some delegations expressed support towards a comprehensive nuclear weapons convention, which would set out general obligations, prohibitions and practical arrangements for time-bound, irreversible and effectively verifiable nuclear disarmament. These delegations considered that the process for negotiating such a convention and bringing negotiations to a conclusion should include a phased programme for the complete elimination of nuclear weapons within a specified time frame. They suggested that such a convention would constitute a non-discriminatory and internationally verifiable legal arrangement that would give States assurances that nuclear weapons and all-related facilities had been destroyed in a transparent and irreversible manner and that no new weapons were being produced.

6. Some delegations, on the other hand, considered a framework agreementas a possible option, which would comprise either a set of mutually reinforcing instruments

dealing progressively with various aspects of the nuclear disarmament process, or a chapeau agreement followed by subsidiary agreements or protocols that would lead gradually to a nuclear-weapon-free world. In their opinion such an approach would provide for flexibility, leave room for confidence-building measures and allow for a smooth transition towards nuclear disarmament, simultaneously taking into account the concerns of all States. It would not necessarily include a specific time frame for accomplishing the elimination of nuclear weapons. It was proposed that a first subsidiary agreement or protocol that could be negotiated might be a prohibition on the use or threat of use of nuclear weapons.

7. Meanwhile, several delegations expressed support for a progressive approach. The approach aims at achieving and maintaining a world without nuclear weapons by taking pragmatic and effective steps in a safe and secure manner. It also underlines that the NPT already contains treaty-level obligations and commitments related to nuclear disarmament, linking it to universal and complete disarmament. With the Treaty as the foundation, all its parties, both nuclear-weapon States and non-nuclear-weapon States can work together on the building blocks of the global disarmament architecture, starting with the early entry into force of the Comprehensive Nuclear Test Ban Treaty and the commencement of the negotiation of a treaty banning the production of fissile material for use in nuclear weapons or other nuclear explosive devices. The approach further regards that effective, sustainable disarmament must also consider the international security environment, without losing sight of the broader concerns about the risk posed by nuclear weapons. It was also raised that effective disarmament must be inclusive and engage nuclear weapons states who have special responsibilities in this field, in practical ways which build the trust necessary for further reductions. Some delegations viewed that many measures proposed under the progressive approach reflected existing commitments that enjoyed consensus.

8. The adoption of the Treaty on the Prohibition of Nuclear Weapons (TPNW) on 7 July 2017 was supported by some delegations. They highlighted the legal norm set by the Treaty, which in their view fills a legal gap in the existing legal architecture on nuclear weapons. They emphasized that the TPNW represented an effective measure under Article VI of the NPT by creating a legally binding prohibition on nuclear weapons. It was stressed by them, that the TPNW complemented the NPT and was designed to strengthen existing disarmament and nuclear non-proliferation regime.

9. Other delegations expressed their opposition to the TPNW, emphasizing the crucial link between progress on disarmament and the international security environment. They stressed that the TPNW would not contribute to the reduction or limitation of nuclear weapons. Some delegations noted that the TPNW does not reflect customary international law and thus could bind only its parties. Concerns were expressed that the TPNW could create treaty regime inconsistent with the NPT and provoking risk of its erosion.

10. The need to bridge these different views towards the TPNW between Member States was also raised by some delegations during the discussion.

11. Some delegations pointed out the inadmissibility of the practice, abusing the NPT Article I and II, when non-nuclear states participate in the exercises involving for using nuclear weapons, and insisted that it should be stopped.

12. Catastrophic humanitarian consequences of a nuclear weapon detonation were also raised by some delegates with reference to the conferences in Oslo, Norway, Nayarit, Mexico and Vienna, Austria. They drew attention to what they said was the indiscriminate nature of a nuclear weapon detonation. They mentioned that its impact would reach well-beyond national borders and argued that the only way to guard against a nuclear weapon detonation - whether by accident, miscalculation or design – was to ensure the total elimination of nuclear weapons and the assurance that they will never be produced again. In this regard, some delegations expressed their concern over the ongoing modernization programmes of existing nuclear arsenals.

13. Some delegations, whilst acknowledging the importance of the humanitarian dimension, highlighted the primary importance of security considerations, and underlined the need to foster international conditions in which the possession of nuclear weapons would no longer be seen as necessary for the preservation of national and global security.

14. The initiatives to support nuclear disarmament efforts, such as through the Group of Eminent Persons for Substantive Advancement of Nuclear Disarmament, were also raised during the discussion. Some delegations, in this regard, expressed their views that such initiatives provide a venue for interactive discussions involving both Nuclear-Weapon States and Non-Nuclear-Weapon States to find the ground for convergence of different approaches towards a world without nuclear weapons.

C. Considering effective measures, including legal instruments for negotiations

15. During the discussion on consideration of effective measures, including legal instrument for negotiation, delegations who are parties to NPT expressed views that Article VI of the Treaty continues to be the guiding framework for effective measures in nuclear disarmament. Delegations who are parties to the viewed the continued validity of the "13 practical steps for the systematic and progressive efforts to implement Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons" agreed in the Final Document of the 2000 Review Conference, and the "64-point Action Plan", and in particular its 22 specific actions on nuclear disarmament agreed in the Final Document of the 2010 Review Conference. Some called for the urgent implementation of steps and actions outlined in those agreed outcome documents.

16. Some delegations highlighted the need to strengthen the cooperation among nuclear-weapon-free zones as a way to achieve effective measure in nuclear weapons prohibition, and establish new ones to contribute towards effective measures. Some delegations underlined that the early establishment of the Middle East Zone Free of Nuclear Weapons and other Weapons of Mass Destruction is a priority as the implementation of the resolution adopted at the 1995 Review and Extension Conference of the Parties to the NPT on the Middle East. Some delegations also emphasized the importance of early finalization of the Southeast Asian Nuclear-Weapon-Free Zone Treaty (SEANWFZ).

17. An early negotiation and conclusion of a non-discriminatory, internationally and effectively verifiable treaty banning the production of fissile material for use in nuclear weapons or other nuclear explosive devices was called for by some delegations as a measure that will contribute to nuclear disarmament. Some delegations noted that negotiations on treaty banning the production of fissile material for use in nuclear weapons or other nuclear explosive devices should be conducted only in the Conference on Disarmament within the framework of a balanced programme of work and on the basis document CD/1299 of March 24th, 1995 and the mandate contained therein. Several delegations said that such a treaty should focus only on banning the future production of fissile material. Some delegations also viewed that pending the conclusion of a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive nuclear devices, it is important to maintaining and declaring moratoria on the production of fissile material for nuclear weapons purposes. Other delegations were of the view that a treaty dealing with fissile material must cover existing stocks in its scope in order for it to be a genuine and effective measure for nuclear disarmament. These delegations viewed unilateral moratoria on the production of fissile material as being of little value given that these are unverifiable and reversible voluntary measures.

18. Some delegations stressed the urgent need for the conclusion of a universal, unconditional and legally binding instrument to effectively assure non-nuclear weapon States against the use or threat of use of nuclear weapons pending the achievement of the complete elimination of nuclear weapons.

19. Furthermore, as a concrete step towards the elimination of all nuclear weapons, some delegations stressed the urgency of an early entry into force of the Comprehensive Nuclear-Test-Ban Treaty (CTBT). These delegations called upon the remaining "Annex 2 States" to sign and ratify the CTBT without delay.

20. Some delegations observed the deteriorating international security environment. They stressed the importance of creating conditions that would facilitate further major reductions in nuclear arsenals, including confidence-building measures and efforts to

reduce levels of hostility and tension between states, particularly among those possessing nuclear weapons. Some delegations also viewed that it is important to conduct dialogue to bridge differences of positions among states.

21. Some delegations also noted the contribution of bilateral measures in nuclear disarmament to the substantial progress made to date. Some highlighted the importance of commencing negotiations on a post-New Strategic Arms Reduction Treaty (START) between the United States of America and the Russian Federation.

22. Some delegations underlined that the process of the nuclear disarmament cannot be taken out of the general strategic context and that further progress in this area requires taking into account full range of actors, affecting international security and stability. They emphasized that at the present point of time the efforts of the international community in the sphere of the nuclear disarmament should be concentrated on creating necessary prerequisites for further steps.

23. Some delegations also discussed the contribution of other measures that could contribute to nuclear disarmament including verification, transparency and risk reduction, which are important to the achievement of the verifiability and irreversibility of nuclear disarmament.

24. The role of verification and the need to the development of a verification regime for nuclear disarmament was discussed. Delegations viewed a robust and credible verification and compliance mechanism as an essential element for achieving and maintaining a world without nuclear weapons. According to them, verification is as an important element for ensuring adherence to and compliance with any future arrangements on nuclear disarmament. Some delegations are of the view that nuclear disarmament verification can be best addressed in the context of a specific treaty, and not in an abstract manner or as an end in itself.

25. Several delegations welcomed efforts to develop nuclear disarmament verification capabilities. In that regard, they welcomed the commencement of the work of group of governmental experts to consider the role of verification in advancing nuclear disarmament, which was established under the General Assembly resolution 71/67. Some delegations stressed the importance of the SSOD-I Final Document; 16 Principles of Verification of the 1998 United Nations Disarmament Commission (UNDC); works of the two previous Group of Governmental Expert (GGE) in 1990 and 1995; and report of the 2006 UN Panel of Experts as references for a global verification regime.

26. A number of initiatives in the field of verification were also noted by some delegations, including the International Partnership for Nuclear Disarmament Verification (IPNDV), and the on-going UN Group of Governmental Expert (GGE) on nuclear disarmament verification. They viewed the initiatives as avenues to building up trust, identifying and addressing challenges associated with nuclear disarmament verification. Other delegations, however, highlighted that these initiatives are not inclusive, and were established outside the framework of relevant agreements and bodies like the NPT and the Conference on Disarmament.

27. Some delegations stressed that any nuclear disarmament verification regime must strike a balance between national security concerns and the requisite level of access and assurance. Some delegations stressed that nuclear disarmament verification measures may only be envisaged in connection with actual arms control agreements and they should correspond to scale and nature of commitments contracted by the parties. Other delegations pointed that while verification is an important element of nuclear disarmament, it is not a prerequisite for a legally binding instrument on disarmament. Further, several delegations proposed that due to the technical nature of nuclear verification the Conference on Disarmament might conduct dialogue of experts on verification.

28. Several delegations highlighted the value of increased transparency in building confidence, facilitating dialogue, and increasing understanding. They viewed the value in deepening discussion in the CD on the states' security policies and doctrines.

29. The issue of risk reduction and its linkage with the cessation of nuclear arms race and nuclear disarmament were also discussed. The issue of nuclear risk reduction was also

discussed as part of the discussion in Subsidiary Body 2 on the prevention of nuclear war, including all related matters. Some delegations considered that the risk of accidental, mistaken, unauthorized or intentional nuclear weapon detonations would persist for as long as nuclear weapons exist and that the only way to eliminate this risk is by achieving the complete elimination of nuclear weapons.

30. Some delegations highlighted the need for states to take concrete measure to reduce the role of nuclear weapons in their national security doctrine, abandon the nuclear deterrence policy based on first use of nuclear weapons, decrease the operational readiness of nuclear weapons system and refrain from deploying nuclear weapons on the territories of non-nuclear weapon States. Some delegations also called for addressing the linkage between nuclear disarmament and deterrence with conventional forces, weapons and doctrines as well as new types of destabilizing weapons systems. Other delegations pointed to steps already taken to reduce the risk, noting that some proposed steps actually would be de-stabilizing if implemented.

31. The need to further explore and define what is meant under the term "nuclear risk reduction", and also a stand-alone forum within the Conference on Disarmament to discuss those aspects covered by its mandate, was also proposed by several delegations.

Conference on Disarmament

4 September 2018

English only

Subsidiary Body 2: Prevention of nuclear war, including all related matters

Report

1. By decision CD/2119 of 19 February 2018, the Conference on Disarmament established five subsidiary bodies with a view to make progress on its agenda items. It was agreed that Subsidiary Body 2 would deal with the prevention of nuclear war, including all related matters. In accordance with the timetable annexed to decision CD/2126 of 27 March 2018, it was further agreed that the general focus of Subsidiary Body 2 would be on the ban of the production of fissile materials for nuclear weapons and other nuclear explosive devices. An understanding was also reached that at least one meeting of the Subsidiary Body would be devoted to matters other than the ban of the production of fissile materials for nuclear weapons and other nuclear devices that fall in the purview of the prevention of nuclear war, including all related matters.

2. This report reflects the discussions that took place in this body pursuant to its mandate. It acknowledges the deep divergences of views on the different issues.

- Part I reflects the discussions on the part with the general focus on the ban of the production of fissile materials for nuclear weapons and other nuclear explosive devices.
    - Part I. A reflects the technical discussions held with a view to broadening areas of agreement.
    - Part I. B reflects the discussion on the consideration of effective measures, including legal instruments for negotiations.
- Part II reflects the discussion on the 'prevention of nuclear war, including all related matters' and focuses on matters other than the ban of the production of fissile materials for nuclear weapons and other nuclear explosive devices. The discussion mainly featured the issue of nuclear risk reduction.
- Part III identifies possible areas of further work on the basis of the discussions in Subsidiary Body 2.

3. Subsidiary Body 2 benefited from the participation of two experts, namely Dr Pavel Podvig, Programme Lead at the United Nations Institute for Disarmament Research, and Sico van der Meer, Research Fellow at the Netherlands Institute of International Relations 'Clingendael'. Dr Podvig presented 'an overview of activities conducted with a general focus on the ban of the production of fissile materials for nuclear weapons and other nuclear explosive devices' and was present to provide expertise at the sessions. Mr van der Meer gave a presentation at the 29 June session on 'reducing nuclear weapons risks: 11 policy options'.

I. Part I.

A. Technical discussions

General

4. Delegations expressed their views on a ban of the production of fissile materials for nuclear weapons and other nuclear explosive devices. They stated that a treaty should be non-discriminatory, multilateral and internationally and effectively verifiable. It should practically contribute to nuclear non-proliferation and disarmament objectives bearing in mind paragraph 50 (b) of the final outcome document of SSOD-I and lead to undiminished security for all states with a view to promoting or enhancing stability at a lower military level, taking into account the need of all states to protect their security. It should be effective, practical, and flexible to allow for future developments. Such a treaty remains particularly valuable as an effective measure relating to nuclear disarmament and non-proliferation, and also a means to build trust and confidence among states.

5. Some delegations stated that transparency and confidence-building measures (TCBMs) outside a treaty can be valuable tools. Others stated that TCBMs in themselves, however, are not a substitute for a legally-binding instrument, i.e. a treaty. Delegation expressed that a treaty should not prohibit all production of fissile materials, such as that for civilian use or other non-proscribed uses. Non-diversion of fissile material to nuclear weapons or other nuclear explosive devices should be ensured. It is important to determine a clear object and purpose for this treaty in considering effective measures. The obligations under a treaty should be in line with the principle of non-discrimination. Important aspects include definitions, verification, and institutional and legal arrangements, which are all interlinked with each other and with the objective and scope of the treaty. The most appropriate international forum to negotiate a treaty is the Conference on Disarmament.

Definitions

6. Delegations expressed their views on the issue of definitions. At the outset, a delegation placed the caveat that discussions on elements of a treaty such as verification, definitions and legal and institutional arrangements are premature as long as there is no full clarity and common vision on the treaty's objective and scope because of the close interlinkages.

7. Delegations stated a treaty should define, inter alia, fissile material, fissile material production; and should clearly delineate the facilities relevant for such an treaty. Definitions will have an impact on the scope, and means and methods of verification. Definitions should ensure that the object and purpose of a treaty can be effectively met.

Scope

8. Delegations expressed their views on the scope of a treaty. Some delegations insisted that the treaty should only focus on banning the future production of fissile material. According to them, the Shannon Report and the mandate contained therein (CD/1299 (1995)), which was agreed by consensus, remains the most relevant and valid basis for conducting negotiations in the Conference on Disarmament on such a treaty. The point was made that therefore there was no need for a new mandate. These delegations called for the immediate commencement of negotiations in the Conference on Disarmament of a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices on the basis of CD/1299 and the mandate contained therein.

9. Other delegations indicated that they were more flexible in terms of scope, whilst a treaty banning future production was the minimum. According to these delegations, a distinction was made with regard to the different categories of existing stocks of fissile materials and some of those categories could be included either as part of the same instrument or in a different arrangement. Also suggestions were made by some delegations as to how to deal with the different categories, such as subjecting some of them only to

verification and not necessarily reduction, whether voluntary or not. According to these delegations, the Shannon Report and the mandate contained therein left sufficient 'constructive ambiguity' as to whether stocks were included in the scope or not.

10. Yet other delegations insisted that the treaty's scope should include future as well as past production of fissile materials for nuclear weapons and other nuclear explosive devices. Depending on the category of stocks, they should be subject to the treaty and should either be reduced and/or put under verification. For some of these delegations the Shannon Report and the mandate contained therein were the basis for negotiations as it did not exclude existing stocks, whilst a delegation also expressed the view that the Shannon Report and the mandate contained therein has outlived its utility and validity as the basis for substantive work on a ban as it does not explicitly cover existing stocks. It therefore was argued, by this delegation, that a new mandate was needed.

11. The view was further expressed that the issue of scope and objective of the treaty needs to be addressed prior to starting any negotiations, whilst others were of the view that issue of scope could be addressed as part of the negotiations.

12. Some delegations found it useful to distinguish between different functional categories of fissile materials as the specific views on how to deal with each category could be better expressed. A number of different functional categories were mentioned, such as, fissile materials:

(a) in civilian use;

(b) in nuclear weapons;

(c) in nuclear weapon related activities;

(d) designated as excess to nuclear weapon requirements;

(e) released as a result of individual, bilateral or multilateral disarmament arrangements;

(f) in, or reserved for, non-proscribed military use.

13. In terms of the functional categorisation of fissile materials, a delegation indicated that the concept of 'excess material' may confer legitimacy to the continued acquisition and production of nuclear weapons contrary to nuclear disarmament commitments. Also, some delegations preferred a smaller number of functional categories as adequate for the discussions.

14. There was general agreement that civilian uses and non-proscribed military uses of fissile materials should not be subject to a prohibition. However, the point was made that mechanisms should be put in place to ensure non-diversion of such materials to nuclear weapons and other nuclear explosive devices. Delegations argued that such arrangements should take into account the concerns of states regarding sensitive information. A broad range of views on the issue of international transfers / acquisition of fissile materials for nuclear weapons and other nuclear explosive devices was further expressed by some delegations. Some of them were of the view that such transfers /acquisition go against the purpose of such a treaty, while others argued that if a prohibition on transfers / acquisition is included in the scope of a treaty, logic would demand that the treaty necessarily had to deal with existing stocks.

15. Delegations also discussed how far the treaty could contribute to non-proliferation and disarmament objectives. Some delegations were of the view that the treaty should mainly focus on non-proliferation. Others stressed that it should explicitly be part of the nuclear disarmament regime. For them it was therefore important that at least some of the categories of existing stocks were included in the scope of the treaty. Also, it was mentioned that a treaty that does not encompass stocks of fissile materials within its scope, will not prevent vertical and horizontal proliferation. Others mentioned that the treaty would still cap any future production and hence have a non-proliferation value. Still other delegations expressed the view that a treaty that only deals with future production would also benefit nuclear disarmament because of the possible transparency and verification measures attached to it. (Initial) declarations in this context could also be helpful for future

nuclear disarmament arrangements, it was argued. It was also suggested that the treaty could include a mechanism whereby fissile material resulting from future nuclear disarmament arrangements be made subject to its verification regime to ensure irreversibility.

Verification

16. Several approaches to verification were considered by delegations. Some delegations favoured a focused approach to verification concentrating on enrichment and reprocessing facilities, and downstream facilities processing or handling fissile material. Others argued for a comprehensive approach covering the entire nuclear fuel cycle. Another group of delegations outlined the advantages of a hybrid approach, focusing systematic verification on those areas of the nuclear fuel cycle where the degree of attractiveness for misuse is highest, should a party seek to violate its treaty obligations, but also applying lighter touch measures to other fuel cycle activities taking into account the risks that they may pose for treaty objectives. Advantages and disadvantages of the different approaches were discussed. In that context some delegations mentioned the need for balance between resource efficiency and effectiveness. Also, some delegations expressed the view that duplication with existing safeguards mechanisms and obligations should be avoided. The importance of verification provisions being non-discriminatory was also emphasised.

17. Some delegations noted that the focus of requirements on verification would fall on states with unsafeguarded facilities, as comprehensive safeguards agreements as contained in INFCIRC/153 corrected, and for the relevant states their additional protocols to it, address important aspects of this issue for non-nuclear weapon states under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). It was also argued that additional measures may still be needed for those latter states. Also, some delegations that are State Party to the NPT expressed the view that provisions of a future treaty should be consistent with existing legal obligations, in particular the NPT.

18. The importance of addressing concerns of states regarding sensitive information in the context of verification was discussed. Delegations stated that a verification regime should take into account the non-proliferation and commercial concerns of States Parties regarding sensitive information and ensure its confidentiality. Some delegations referred to the concept of deferred verification, a 'black box' approach, and forms of managed access to deal with this issue. The point was also made that sensitivities with regard to intellectual property and trade information should also be taken into account.

19. Some delegations expressed the view that the verification toolbox should include routine as well as non-routine inspections. Material accountancy was mentioned as a possible verification measure. Some delegations also addressed the verification of transfers and the importance of declarations in that regard.

20. Delegations voiced their preferences concerning the body that should be tasked with verification. Some delegations preferred a main role for the International Atomic Energy Agency (IAEA) on verification of a future treaty, whilst others preferred setting up a new body tasked with verification without excluding the possibility of drawing on some IAEA resources.

21. The view was expressed that further technical and scientific examination of areas related to verification are merited in a manner that complements, and not duplicates, work ongoing in other initiatives. The following areas were specified in that regard: 1) technical challenges to verification, 2) mapping out how verification would work in practice under various models, and 3) assessing the resource implications of verification and institutional models. It was also argued that further work on categorisation of production facilities was helpful in order to determine a suitable approach to verification. Although in favour of further scientific work, the point was made that this could be initiated as part of the negotiations of a treaty and did not need to be conducted prior.

Institutional arrangements

22. Delegations were of the view that institutional arrangements will help ensure credibility of the treaty within the international community by inter alia facilitating

effective implementation in order to achieve the object and purpose of such a treaty. Effective institutional arrangements and governance mechanisms will enable set objectives to be met.

B. Consideration of effective measures

23. Many delegations indicated that they were ready to begin negotiations of a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices without delay. The view was also expressed that such a treaty should be negotiated as part of a comprehensive and balanced Programme of Work of the Conference on Disarmament. Some delegations expressed that entry-into-force provisions should guarantee that all states with relevant capabilities accede to the treaty.

24. The role and usefulness of TCBMs were also extensively discussed. According to some delegations TCBMs could be valuable in preparing for negotiations, during negotiations and as part of a legally-binding instrument. These did not need to be mutually exclusive. They could help create a climate of trust and confidence. Delegations mentioned a number of examples of what they viewed as TCBMs, although not exhaustive, such as voluntary offer agreements, moratoria on fissile material production for nuclear weapons or other nuclear explosive devices, irreversible dismantling of fissile material facilities, unilateral declarations, and other forms of information sharing. Some delegations found them useful, although not a substitute for a legally-binding instrument. Others specifically voiced their concern that they were not verifiable or irreversible, hence they were of little value. The voluntarily declared unilateral moratoria on fissile material production for nuclear weapons and other nuclear explosive devices were also mentioned in that context. The view was also expressed that they would be a disincentive to negotiate a legally-binding instrument in the first place. The lack of clarity on the scope of such moratoria was also an issue, according to some delegations.

II. Part II: Prevention of nuclear war and other related matters

25. After a presentation by the expert Sico van der Meer on policy options related to reducing nuclear weapons risks, delegations discussed the relevance of this topic for further discussion in the Conference on Disarmament. Many delegations welcomed further discussions on this topic, in particular with a view to current developments in the international security environment. Some delegations expressed the view that further discussions on the security environment and how to improve it may also contribute to nuclear risk reduction. Some delegations pointed to the need to narrow down the scope of possible nuclear risk reduction measures to be discussed, whilst others emphasised the need to better define risks by category and then to define the tools in the toolbox to deal with the respective risks.

26. Amongst others, a number of policy options were mentioned by some delegations and their relevance was discussed: training for nuclear weapons-related emergencies, increased transparency, improving communications, de-targeting, increasing the security of launching systems, de-alerting, increasing decision time, raising the threshold for use including statements on 'no first use' of nuclear weapons, eliminating certain types, limiting numbers and locations, and nuclear disarmament itself. Elaborating on the latter, according to some delegations, the only way to eliminate this risk is by achieving the complete elimination of nuclear weapons.

27. Some delegations also raised the issue of nuclear deterrence and how to deal with this in the context of nuclear risk reduction. It was argued by some delegations that nuclear deterrence is obsolete and runs contrary to obligations and commitments to achieve nuclear disarmament. The importance of strategic stability or balance was also mentioned by some delegations, including in relation to general and complete disarmament. The importance of multilateralising the issue of nuclear risk reduction and having a discussion on risks associated with new technologies was also mentioned.

III. Part III: Possible areas of further work

28. During the sessions of Subsidiary Body 2 possible areas of further work of this body were discussed. In relation to the topic of 'the ban of the production of fissile materials for nuclear weapons and other nuclear explosive devices', the value of further work was emphasised. Some delegations suggested work on treaty elements, for instance on the technical and scientific aspects, scope, definitions, verification and legal and institutional arrangements or TCBMs.

29. In relation to the topic of prevention of nuclear war, including all related matters, also encompassing 'nuclear risk reduction', delegations agreed that further discussion on this topic in the Conference on Disarmament was welcome.

Conference on Disarmament

4 September 2018

English only

Subsidiary Body 4: Effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons (NSA)

Draft report

1. By decisions CD/2119 of 19 February 2018 and CD/2126 of 27 March 2018, the CD established five subsidiary bodies with a view to making progress on its agenda items. It was agreed that Subsidiary Body 4 would deal with **effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons** (negative security assurances - NSA).

2. This report constitutes an abstract of the discussions that took place in this body pursuant to its mandate:

- Part I reflects the discussions with the general focus on NSA and the external input provided by experts at the request of the CD.
    - Part I. A identifies possible areas of convergence and commonalities in the CD by taking into consideration all relevant views and proposals past, present and future.
    - Part I. B summarizes the detailed discussions held with focus on the role of NSA in the general non-proliferation and disarmament context.
    - Part I. C reflects the consideration of effective measures, including legal instruments for negotiations.
- Part II identifies possible areas of further work on the basis of the discussions in Subsidiary Body 4.

3. Taking into account the mandate of CD/2119 Subsidiary Body 4 benefited from the participation and input of four experts, namely John Borrie, senior fellow at UNIDIR, Paul Ingram, Executive Director at BASIC, Marc Finaud, senior researcher at GCSP and Lukasz Kulesa, Head of the Warsaw branch of the European Leadership Network. Upon the request of some member states John Borrie and Marc Finaud produced a matrix of existing NSA which was shared, presented and discussed during the 12 June session of the subsidiary body and is attached to the background which was submitted by the coordinator in his own capacity as a proposal for the structure of the discussions.

I. Part I.

A. Possible areas of convergence and commonalities

- Delegations acknowledged the positive effect of NSA on the policies of non-nuclear weapon states not to aspire, develop, acquire or possess nuclear weapons and thus on the non-proliferation regime and disarmament in general
- NSA were seen as possible practical steps contributing to overall and general global non-proliferation and disarmament efforts, not constituting an end in itself but rather a pragmatic step to the final goal of a world without nuclear weapons
- States noted that NSA could act to reinforce and strengthen other disarmament instruments and measures
- Nuclear weapons free zones were seen as measures that could be more effective if respective protocols with applicable provisions were signed by all relevant states
- States considered the CD as the most appropriate forum to discuss NSA and their context

B. Substantive discussions

4. Subsidiary Body 4 on NSA provided states a forum and opportunity to present their views and explain underlying policies and motivations pertaining to NSA. Interactive discussions reflected the various priorities of the international community and focused mainly on general considerations, the possible impact of NSA on the non-proliferation regime and nuclear disarmament, the impact of NSA on global and regional security, general and specific obligations arisen from NSA, the possible role of NSA as confidence building measures as well as scope of NSA and linked conditionalities (in the form of reservations and exceptions, in particular with regard to art. 51 of the UNCharter), reciprocity, transparency and verification issues. The point was made that NSA should be designed to provide sufficient assurances, as appropriate, by Nuclear Weapon States to Non-Nuclear Weapons States against to the use or threat of use of nuclear weapons and that the NPT constituted the most suitable context for negotiating new and universal NSA. The view was also expressed that this should be done in a more universal manner (everyone to everyone). Special attention was given to existing legal forms of NSA as anchored in nuclear doctrines, unilateral declarations, UNSC resolutions with particular focus on UNSCR 984 as well as treaties on nuclear weapon free zones. Discussions followed the structure proposed by the coordinator in his letter and background paper of June 12-th (attached) 2018.

5. The point was made that the matrix on existing NSA produced jointly by GCSP and UNIDIR is informative and a background for future discussions and refinement.

C. Consideration of effective measures

6. There was an in depth discussion as to the effectiveness of existing NSA's and their legally binding impact. Nuclear weapons free zones treaties were generally perceived as effective, if respective protocols with applicable provisions are signed by all relevant states. Thus special consideration was given to the universalization of existing NWFZ and the possible creation of new ones on the basis of arrangements freely arrived at among the States of the region concerned. A range of views was delivered regarding the perceived need to constantly update and clarify nuclear doctrines, unilateral declarations and, as appropriate, to review respective UNSC-resolutions on NSA. States also discussed the feasibility and relevance of a stand-alone, comprehensive, legally binding instrument on NSA and the possibility of integrating existing and new NSA into other legal instruments and frameworks.

II. Part II.: Further work on the subject

7. The point was made that various aspects of NSA merit further consideration and should thus be deepened and further explored, notably possible additional measures and legal instruments, including legally binding. It was suggested that respective discussions, within a structured process in the CD, should take place in due course (if mandated accordingly).

8. For consideration of the CD the point was made that further focused discussions on NSA would be informative and conducive to building trust and confidence in the current international security environment. Against the backdrop of an increasingly challenging global security context they could be seen as an effort in the search for undiminished security for all at the lowest possible level of armaments and military forces.

Annex

Negative Security Assurances
Background Paper [1]

Introduction

This background paper aims to reflect the discussions on effective international arrangements to assure non-nuclear weapon States against the use or threat of use of nuclear weapons (NSAs) in the subsidiary body on agenda item four (SB 4), established under CD/ 2119 and CD/2126, which were held during its two meetings on the afternoon of 22 May 2018 and the morning of 24 May 2018 respectively. Previous discussions in the Conference on Disarmament (CD) on this issue were duly taken into account as well, notably the discussions held in accordance with decisions CD/1978 and CD/2021 establishing a schedule of activities for the 2014 and 2015 sessions of the CD and with decision CD/2090 on the establishment of a working group on the 'Way Ahead' for the 2017 session of the CD. In providing an overview of these discussions, focusing particularly on areas of commonalities and points of convergence, the paper is meant to support the work of SB 4 to efficiently build its work on the efforts undertaken so far and thus help to further consolidate and develop the ongoing considerations on NSAs. As such this paper cannot claim to be exhaustive.

Definition and purpose of NSAs

In the context of global security and nuclear disarmament, NSAs are pledges by nuclear weapon States (NWS) to assure non-nuclear weapon States (NNWS) against the use or threat of use of nuclear weapons (NW). Thus, the main purpose of NSAs is the assurance of security and safety of NNWS and their populations from nuclear attacks and threats thereof, thereby strengthening the incentive for and the norm of non-proliferation.

1. General Considerations

1.1. NSA's general contribution to

1.1.1 Nuclear disarmament and non-proliferation

It was argued by many delegations that, as NSAs are designed to provide confidence to NNWS, as they give an incentive for those States to not aspire, develop, or possess NW themselves. In that regard most delegations acknowledged the general positive impact of effective NSAs on both nuclear non-proliferation and disarmament. In the context of the former they notably stressed their significant role in strengthening the objectives and reliability of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). On the other side, NSAs were seen as a practical step contributing to overall global nuclear disarmament efforts, not constituting and end in itself, but rather an intermediary step to the final goal of a world free of NW.

1.1.2. Regional and global security

Many delegations stressed that the need for undiminished security for all was a major concern when addressing current imbalances in the global and regional security contexts..

Most delegations stressed that NSAs would render both regional and global security benefits. NSAs were considered providing an incentive to NWS to reduce their reliance on NW and the salience of these weapons in prevailing security doctrines. In this respect, some delegations mentioned that the so reduced role of NW and the so reduced incentives of NNWS to acquire NW would decrease the threat of nuclear war and improve the general global security level. In this way NSA would equally help to protect states' vital security interests. In addition, some delegations indicated that NSAs as well as the

[1] NB: This background paper aims to be an account of discussions in the CD and is not meant to reflect the national position of Germany.

related processes itself would constitute an important confidence building measure (CBM), which would also increase global security and stability and enhance the prospects for risk reduction measures.
In addition, NSAs were seen as reinforcing the interconnectedness between peace, security and the development agenda with benefits for each of these goals. In this context delegations acknowledged that disarmament and development have an intrinsic link, as recognized inter alia in the final consensus document of the UN General Assembly (GA) of its first Special Sessions devoted to Disarmament (SSOD-I).
Furthermore, the point was made that, by alleviating the insecurities regarding NW and diverting the scarce resources spent on military expenditure to development activities, NSAs could contribute to the implementation of the 2030 Development Agenda. Some delegations noted that the discussions on the principles of international humanitarian law should also be taken into account as they see the use of NW as contrary to peace and security as such.

1.2. Requirements to ensure that NSAs remain an intermediate step towards a nuclear weapon free world

There was general agreement that NSAs constitute an intermediate step towards nuclear disarmament. Numerous delegations stated in this context that the only absolute guarantee for not being targeted by NW was their total elimination. They underlined that the objective of achieving NSAs was therefore not an end itself, but a valuable interim step on the way towards the shared goal of global zero thus contributing to the total elimination of NW. The key feature of this step was described by many delegations as facilitating the general nuclear disarmament process through the creation of trust and confidence.

1.3. Specific benefits in terms of security, nuclear disarmament and non-proliferation for

1.3.1 NNWS

There was wide spread agreement that NNWS have the right to be assured that their survival and security will not be jeopardized by States that possess NW. In this context NSAs were assessed on the primacy of the security of people and it was indicated by some that any nuclear attack on a State that does not possess similar response capabilities was strategically and morally unacceptable. NSA should also contribute to their interest in global nuclear disarmament and non-proliferation. The point was made that notwithstanding the obligations that NNWS have to fulfill in the NPT context, the salience of NW and nuclear elements in national defence postures of NWS were increasing.

1.3.2. NWS

As NSAs could help to reduce their salience of NW in military doctrines and increase transparency they were perceived as having a positive impact on global security and and thus reducing nuclear dangers among NWS in particular. It was further mentioned by some delegations that the conclusion and implementation of NSAs would not cause additional financial burdens and therefore would be a rather cost-free exercise for NWS

1.3.3. Deployed forces

Some mentioned that with regard to the important safety benefits, which are provided through NSAs, and thus the reduced risk of being drawn into a global nuclear conflict, the security of deployed forces of NWS abroad (in NNWS) would also be enhanced.

2. Obligations

2.1. General obligations for NWS (as part or not of nuclear Alliances)

It was indicated that with regard to the efficiency of NSAs, NWS have to make sure that these assurances are clearly reflected and properly communicated in their domestic and foreign policy as well as in their military doctrines and nuclear postures. Some delegations asked in this context to lower the level of ambiguity in existing doctrines. Other delegations mentioned the necessity to balance the perceived need by NWS to have an element of ambiguity in their nuclear doctrines and the desire by NNWS to have clarity and transparency on the nuclear policies of NWS, including the respective doctrines. The point was further made for the need of agreed and coherent multilateral NSAs as well as consistency between declaratory policies and behavior by those granting NSAs. It was stressed that all

NWS would need to discuss measures relating to reducing the role of NW in their respective security doctrines and policies. Some voiced that the starting point for discussions on NSAs should be among States that have nuclear deterrence doctrines. In this context, others pointed out that military doctrines were sovereign national matters and could thus not be subject to international negotiations.
NWS of the NPT noted that with the unilateral pledges made in Security Council Resolutions 255 (1968) and 984 (1995), the consensus final document of SSOD–I, their commitments undertaken through the respective protocols of the existing NWFZs, and by accepting NSAs as an agenda item in the CD, they have already acknowledged their 'global' obligations to grant NSAs and provided sufficient guarantees for NNWS which are party to and in full compliance with NPT obligations.
However, some argued that the lack of progress on concluding a universal legally binding international instrument formed a risk to the credibility and relevance of the existing NSA and the non-proliferation regime as such.

2.2. NNWS (as part of NWFZs, nuclear alliances or neither)
It was considered that Parties to the NPT and Parties to the treaties or agreements establishing NWFZs have already made respective concrete commitments and would just need to reconfirm them. In this context it was further noted that other States possessing NW but which have not been officially designated NWS, may have to make non-nuclear undertakings in order to qualify for NSA.

2.3. General complementary obligations/guarantees both for NWS and NNWS in terms of refraining from the threat or use of force, including conventional, against the territorial integrity, sovereignty or political independence of a NNWS.
With regard to shared obligations, the point was made that all States are bound by the UN charter and the obligation in article 2 to refrain from force or the threat of force to solve their disputes. In the context of existing NSAs states should pursue the objective to facilitate negotiation, entry into force or implementation of further complementary disarmament and non-proliferation agreements.
The question was raised that the CD has to consider who should provide assurances to whom. Two approaches to this question were mentioned: either the provision of assurances by NWS to NNWS only, or an approach, which would involve assurances provided by everyone to everyone, although possibly in an asymmetric manner.
It was noted that although Art. 2(4) UN Charter prohibits the threat or use of armed force, there was a lack of common agreement and understanding about the implications of this term, notably in connection with article 51 and the inherent right of states to self-defence. It was mentioned that in order to arrive at a global agreement on NSAs, the discussions should also focus on a commonly understood definition for what constitutes a 'threat of use of NW'. Furthermore, it was suggested to define the meaning of 'alliance with NWS' in the context of NSAs.

2.4. Obligations resulting from NSAs in terms of
2.4.1. Transparency (e.g. nuclear doctrines)
The point was made that the credibility of NSAs would depend on measures that may be put in place to promote transparency, allow verification, and address non-compliance.
Delegations mentioned that increased transparency by NWS with regard to NW capabilities, the role of these weapons in their defence postures, including thresholds of use, location of storage sites and operational status, and in the implementation of arms control agreements would be necessary to credibly assure NNWS and to build confidence both among NWS and NNWS. Many delegations stressed the need to discuss which transparency measures would be considered as basic requirements regarding NSAs.
2.4.2. Verification
Concerning verification, some delegations mentioned that it was critical for NNWS who qualify for NSA that they demonstrate continued compliance with their non-proliferation obligations through robust verification.
In this regard it was stressed that that the IAEA verification mechanism would already provide credible assurances for NWS that NNWS comply with their obligations under their safeguards agreements, and do not divert nuclear materials acquired for peaceful purposes to proscribed or unknown purposes. It

was pointed out by some delegations that a similar effective verification mechanism would be necessary to provide satisfactory assurances of compliance by NWS.
However, it was indicated the issue of a treaty's verifiability should not be taken as a hindrance to commence negotiations on such treaty.

2.4.3. Confidence and Security Building Measures (CSBMs)

Some delegations mentioned the possibility that through NSAs, NWS would not only make commitments towards NNWS, but also among themselves, which would additionally enhance their mutual confidence and generally support CSBMs.
Many delegations argued that transparency played an important role in confidence-building and was a prerequisite for further progress in verified arms control and disarmament. In that context it was mentioned that even though ambiguity might be a part of deterrence and the respective nuclear postures, the mere dialogue on NSA could help to enhance confidence and trust – what would be especially crucial in the increasingly tense international security environment. In this regard it was noted that increased transparency by NWS as a voluntary confidence-building measure would further assure NNWS and thus could be followed up by additional CSBMs.

2.4.4. Actions in case of alleged non-compliance/sanctioning of non-compliance

It was emphasized that a verification regime adopted as part of NSAs should include mechanisms to resolve disputes, including consultations with concerned parties and that judgments on compliance should be part of a political process, but based on facts identified through verification reports.
Many delegations stressed that non-compliance and possible consequences were critical issues. In that context, some delegations mentioned that in cases of non-compliance, credible sanctions would be necessary in order to help bringing States back into compliance and thus underlined the need for stringent procedures to assess non-compliance while other delegations stressed the preventive character of NSA and that in a scenario of use of NW the question of sanctions was a hypothetical one. It was also mentioned that, given the composition of the UNSC and the prominent role of NWS therein, this body should not be involved, while others did see a role for it as there was no other authoritative body which could assume that role.
With regard to consultation mechanisms, which should provide the opportunity to clarify the circumstances of the matter, some delegations pointed out that the question on how to assess compliance would need further clarification as well as the question whether a separate instrument would be needed for that purpose or if these issues should be an integral part of effective NSAs.

3. Constraints

3.1. Reciprocity/ Conditionalities

It was acknowledged that NSAs have a certain element of reciprocity built into them notwithstanding the fact that current assurances have been extended from NWS to NNWS. They would thus come with mutual obligations both for NWS and NNWS. Some delegations held the view that NNWS could be expected to meet certain conditions to qualify for NSAs, e.g. to comply with the obligations under the NPT, not resorting to other weapons of mass destruction (WMD) or not acting in alliance with a NWS. On the other side it was voiced that NNWS have a legitimate interest in unequivocal and legally binding NSAs as they voluntarily gave up their right to possess NW in the NPT framework.
In this context some delegations mentioned that – if strong evidence emerges that an NPT member State manufactured or acquired NW – it would automatically lose the coverage of NSAs as a result. In this regard some delegations noted that NSAs should be one of the benefits that NNWS can derive by being a party to the NPT, while others noted that NSAs should be unconditional as a matter of principle.

3.2. Requirements for the effectiveness of NSAs in light of attacks against vital interests

It was mentioned that the most principal mutual, legally binding NSAs could be seen in Art. 2(4) UN Charter, which prohibits the threat or use of armed force against the territorial integrity or political independence of any State. However, it was underlined that it is non-specific with regard to NW, what was also reaffirmed in the 1996 advisory opinion of the International Court of Justice (ICJ), which did not give a clear answer to the question whether the use of NW could be permitted or forbidden under international law as the lawfulness of the use of a NW in 'extreme circumstances of self defence' could

not be ruled out. Accordingly, there were different views on the legitimacy of these exceptions and caveats, notably the use of NW in such extreme situations of self defence, and the consequently possible impact on the validity of NSAs.
Accordingly, some NWS pointed out that they would consider the use of NW only under extreme circumstances purely to defend the vital interests of the country, its allies and partners and in line with their respective military doctrines. They further explained that such reservations placed on NSAs should be viewed within the overall global context and that those reservations are important to avert any aggression from other States.

3.3. Special considerations in terms of compliance with
3.3.1 NPT
Some delegations reiterated that NSAs should not be linked to a specific existing treaty and that there was no relationship between NSAs and the NPT, as the latter would neither universal, not would it include provisions on NSAs nor provide any item regarding the use of NW. Other delegations stated that they see NPT membership and compliance as a legitimate precondition for NSAs which raised questions regarding the mechanisms that are available to assess such 'compliance'.
It was pointed out that every effort would have to be made to strengthen NSAs in all aspects to inter alia prevent the proliferation of NW, but without hampering the right to peaceful uses of nuclear energy by Parties to the NPT. It was also mentioned by some delegations that NWS would need to continue to pursue in good faith negotiations on effective measures relating to nuclear disarmament to reaffirm their commitment under Art. VI of the NPT.
Many delegations stressed the importance of NSAs in the NPT context as attributed by action 7 of the 2010 Action Plan and the role of the CD therein and the role of the UNSC 984 resolution for the indefinite extension of the NPT in 1995.
3.3.2. CTBT
Many delegations mentioned that NSAs would be complementary to the obligations of the CTBT to refrain from causing, encouraging, or in any way participating in the carrying out of any NW test explosion or any other nuclear explosion, and to refrain from carrying out any NW test explosion or any other nuclear explosion, and to prohibit and prevent any such nuclear explosion at any place under its jurisdiction or control. It was further mentioned that a progress on NSAs might also have a positive impact on the CTBT entry into force and universalization process.
3.3.3. FMCT
The discussions on an FMCT to refrain from causing, encouraging, or in any way participating in production of fissile material (FM) for NW or other explosive devices were also seen as complementary to discussions on NSAs as both would constitute intermediary steps for nuclear disarmament. It was noted by some that NSAs could provide a good basis for further work in the CD and thus discussions on an FMCT, especially because in their view FMCT constituted the most feasible agenda item together with NSAs in the CD.

3.4. Complementary requirements for the effectiveness of NSAs in terms of
3.4.1. Asymmetric scenarios
Some delegations elaborated on the possibility of NNWS acting in concert or in a military alliance with NWS and if so, what kind of impact this would have on existing NSAs. This was also mentioned in the context of overwhelming conventional attacks, which would put the vital security interests of a State at stake. The same link was established by some delegations who questioned the eligibility of States to receive NSAs on the basis of their existing security arrangements with NWS.
3.4.2. Other WMD
It was stated that NW constitute a class of weaponry on their own due to their unparalleled destructive force. The question was raised if attacks with other WMD – chemical or biological weapons (CBW) – should or should not be included in conditions justifying the use of NW. It was acknowledged that either way, methods of warfare used to respond to CBW attacks have to be in compliance with the requirements for self defence under Art. 51 UN Charter and International Law.

The point was made that, given the constantly changing international security dynamics, NWS would have the right to review provided assurances and that such review would be conditioned on the threat, development or proliferation of WMD which could pose a threat comparable to that of NW.

3.4.3. Disruptive new technologies

It was noted that the use of NW in response to an attack using disruptive new technologies, including cyber warfare, could be considered in the light of the necessary requirements of Art. 51 UN Charter and that this must also be discussed in terms of credible NSAs.

3.4.4. Activities of non-state actors, including terrorists

Delegations discussed the issue that the obligation not to use or threaten to use NW against NNWS must extend not only to the territory of NNWS, but also to the armed forces and to non-state actors and installations under the jurisdiction and control of such States. It was mentioned that in case the State, on whose territory the non-state actor operates, would fail to comply with its obligations to prevent non-state actors from acquiring material necessary to build NW or other WMD, or this State would aid non-state actors in acquiring NW in any way, it should be held responsible under international law.

Some delegations voiced the further need for discussions on the issue of an appropriate response to nuclear terrorism in the context of NSAs.

Some delegations noted that neither of the above-mentioned scenarios would justify the use of nuclear weapons as humanitarian considerations would prohibit such use of NW and that such scenarios were against the spirit of the NPT.

4. Legal and Institutional Considerations

4.1. Legal instruments

The legitimate right of NNWS to receive NSAs was articulated by all sides. However, many delegations held the view that existing assurances were not satisfactory given their often non-legally binding nature under international law, inherent ambiguities which are open for free interpretations, and the varying qualifiers and derogations associated with them. In that context, the need for stronger and more effective assurances with fewer caveats was mentioned. The counter argument was that existing assurances were already credible, effective and thus the concerns about reservations and conditions were unsubstantiated. However, some States felt that unilateral assurances were merely statements of intention and therefore unsatisfactory because they are not irreversible enforceable commitments. Delegations thus differed in their views on the relevance of existing NSA and the perceived need for their reaffirmation as a starting point for further process. The validity of UNSC-resolution 984 was widely reaffirmed, restating that already existing NSAs would enhance trust and confidence. In this context it was mentioned by several delegations that it would be necessary to have a more focused discussion on possible legal instruments regarding additional NSAs, which could be pursued e.g. in form of political declarations, a treaty, a protocol, a convention, or a new UNSC resolution. Many delegations noted in this regard that the strongest legal instruments on NSA can be found in the protocols to the NWFZ-treaties as ratified by NWS.

It was remarked that a legally binding instrument would not present a technical challenge as it would not require a comprehensive treaty regime. Many delegations, especially NNWS, shared the view that a legally binding instrument should be universal, irrevocable, non-discriminatory, credible, and unambiguous and respond to the concerns of all parties.

4.2. Universality

Many delegations expressed the view that NSAs should be global and uniform in scope, application and interpretation in order to provide the best possible protection. It was noted that if NWS give NSAs, which vary in scope and degree of ambiguity, they would erode the efficiency of the assurances in their totality as each caveat, especially with regard to conditions and qualifications, could have the effect of neutralizing NSAs provided by the other NWS.

4.3. Regional relevance (e.g. Nuclear-Weapon-Free Zones, NWFZs)

Most delegations acknowledged that regional relevance would be mostly derived from existing NWFZs, which set a standard for NSAs. As such they have positively contributed to global peace and security as

well as nuclear non-proliferation. The Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco), the South Pacific Nuclear Free Zone Treaty (Treaty of Rarotonga), the Treaty on the South East Asia Nuclear-Weapon-Free Zone (Treaty of Bangkok), the African Nuclear-Weapon-Free Zone Treaty (Treaty of Pelindaba), and the Treaty on a Nuclear-Weapon-Free Zone in Central Asia (CANWFZ) combine 115 States that have freely chosen to form these zones. Additionally, Mongolia has declared its own nuclear-weapon-free status. It was acknowledged that the commitments assumed by NWS in regard to these treaties are legally binding guarantees under international law. However, it was pointed out that the respective protocols of the Treaties of Rarotonga, Bangkok, Pelindaba, and CANWFZ have not been signed or ratified by all NWS and only Additional Protocol II of the Treaty of Tlatelolco has been signed and ratified by all five official NWS – although with reservations and interpretative declarations. Many delegations stressed the need to further strengthen the regimes of the NWFZs and called upon NWS to sign and ratify all respective protocols.

Many delegations welcomed the establishment of NWFZs. NWS also expressed their support for the establishment of NWFZs, elaborated on their commitments made so far under NWFZs and stressed that those commitments were legally binding guarantees. It was mentioned that assurances have been made for more than 100 States belonging to these regions. Some NWS expressed their intention to broaden assurances by signing or ratifying the Protocol to the Treaty of Bangkok.

On the question of lack of uniformity of NSAs among different NWFZs, the point was made that the NWFZs treaties and respective protocols reflected the specific regional characters, and hence could not be expected to be uniform. Therefore, it was questioned if those regional arrangements can actually substitute legally binding, universal NSAs. Some delegations called for the harmonization of the protocols of NWFZs.

A concern often voiced in this context was that the establishment of NWFZs would narrow down 'global' obligations into a 'regional' dimension. Moreover, some delegations also signaled that NNWS belonging to regions where the establishment of NWFZs proved more problematic, e.g. due to the existence of NW in those particular regions, should not be denied the entitlement to receive legally binding NSAs. Thus, it was suggested to enlarge the scope of NSAs beyond NWFZs.

4.4. Appropriate forums to pursue NSAs

4.4.1. CD

All delegations recognized the CD as the most appropriate forum with the required mandate and the technical potential to commence and carry forward negotiations on NSAs. NSAs were seen an essential building block of a comprehensive and balanced program of work in the CD. In this context, some delegations noted that legally binding NSAs constituted a mature issue, especially considering the understanding that a nuclear attack on a State that does not possess a similar response capability was widely seen as unacceptable. It was voiced that necessary steps should be taken in the CD to start to work in accordance with its mandate as soon as possible and to pave the way towards initiating multilateral negotiations on an agreement regarding NSAs.

It was mentioned that, given the intrinsic link of NSAs with the other agenda items of the CD, continued deliberations on the issue of NSAs as one of the priorities of the CD could positively impact other agenda items and would be beneficial to both NWS and NNWS.

In this regard, many delegations mentioned the need to have a comprehensive matrix aggregating all existing NSAs provided through unilateral declarations, UNSC resolutions, and the protocols of NWFZs treaties to identify a list of common elements and find the least common denominator to start negotiations of a future multilateral instrument. It was suggested that this mapping exercise could be done in two steps, firstly summarizing the technical terms as well as the factual aspects and secondly elaborating on underlying political issues and doctrines.

4.4.2. NPT

Some delegations expressed the view that NSAs could also be negotiated in the context of the NPT. However, the point was made that this would be problematic as some relevant States were not Parties to the NPT.

Nevertheless, the positive impact that NSAs could play in the maintenance and strengthening of the NPT, as the most important international non-proliferation regime, was widely acknowledged.

5. Matrix of existing NSA

The following matrix on existing NSA was elaborated jointly by JCSP and UNIDIR at the request of members of the Conference on Disarmament.

I. NUCLEAR-WEAPON STATES PARTIES TO THE NON-PROLIFERATION TREATY (NPT)

State	Unilateral Declarations	Protocols to Nuclear-Weapon Free Zones	Politically Binding Bilateral or Multilateral Instruments
CHINA	**(Document S/1995/265 – 6 April 1995)** *"1. China undertakes not to be the first to use nuclear weapons at any time or under any circumstances. 2. China undertakes not to use or threaten to use nuclear weapons against non-nuclear-weapon States or nuclear-weapon-free zones at any time or under any circumstances. This commitment naturally applies to non-nuclear-weapon States parties to the [NPT] or non-nuclear-weapon States that have entered into any comparable internationally binding commitment not to manufacture or acquire nuclear explosive devices".* **Assurance to Ukraine (Letter 4 Dec. 1994)**[1] *"...The Chinese Government has always maintained that under no circumstances will China use or threaten to use nuclear weapons against non-nuclear-weapon States or nuclear-weapon-free zones. This principled position also applies to Ukraine..."* **Assurance to Kazakhstan (Letter 8 Feb. 1995)**[2] *"...The Chinese Government has unconditionally undertaken not to use or threaten to use nuclear weapons against non-nuclear-weapon States or nuclear-weapon-free zones. This long-standing principled position also applies to Kazakhstan..."*	**Tlatelolco Treaty**: *"[The Parties] undertake not to use or threaten to use nuclear weapons against the Contracting Parties."* Ratified: 2 June 1974 (Statement: *"China will never use or threaten to use nuclear weapons against non-nuclear Latin American countries and the Latin American nuclear-weapon-free zone...").* **Rarotonga Treaty**: *"[Each Party] undertakes not to use or threaten to use any nuclear explosive device against: (a) Parties to the Treaty; or (b) any territory within the South Pacific Nuclear Free Zone for which a State that has become a Party to Protocol 1 is internationally responsible."* Ratified: 21 Oct. 1988 (Statement: *"...China will neither use or threaten to use nuclear weapons against the South Pacific Nuclear Free Zone nor test nuclear weapons in this region...However, the Chinese Government reserves its right to reconsider these obligations if other nuclear weapon States or the contracting parties to the Treaty take any action in gross violation of the Treaty and its attached Protocols, thus changing the status of the nuclear free zone and endangering the security interests of China.").* **Bangkok Treaty**: *""Each State Party undertakes not to use or threaten to use nuclear weapons against any State Party to the Treaty. It further undertakes not to use or threaten to use nuclear weapons within the Southeast Asia Nuclear Weapon-Free Zone."* Not signed. **Pelindaba Treaty**: *"Each Protocol Party undertakes not to contribute to any act that constitutes a violation of the Treaty or of this Protocol."* Ratified: 10 Oct. 1997.	**Joint Declaration on Mongolia's Status as a Nuclear-weapon Free Zone (20 Sep. 2012)**[3] *[The P5] "reaffirm, in the case of Mongolia, their respective unilateral negative security assurances as stated in their declarations issued on 5 and 6 April 1995, and referred to in Security Council resolution 984 (1995) of 11 April 1995, or as subsequently updated."*

		Semipalatinsk Treaty: *"Each Party undertakes not to use or threaten to use a nuclear weapon or other nuclear explosive device against any Party to the Treaty on a nuclear-weapon-free zone in Central Asia..."* Ratified: 17 Aug. 2015.	
FRANCE	**(Document S/1995/264 – 6 April 1995)** *"France reaffirms that it will not use nuclear weapons against non-nuclear-weapon States Parties to the [NPT], except in the case of an invasion or any other attack on France, its territory, its armed forces or other troops, or against its allies or a State towards which it has a security commitment, carried out or sustained by such a State in alliance or association with a nuclear-weapon State".* **Assurance to Ukraine (5 Dec. 1994)[4]** *"France reaffirms towards Ukraine, as a non-nuclear state party to the NPT, its declaration made towards non-nuclear weapon states that are committed to remain so not to use nuclear weapons against them except in the case of an aggression conducted in association or in alliance with one or several nuclear-weapon state(s) against France or a state with which it has a security arrangement."* **(Speech by President François Hollande, 19 February 2015)[5]** *"France will not use nuclear weapons against non-nuclear-weapon states parties to the [NPT] which comply with their international non-proliferation commitments in terms of weapons of mass destruction."* **(2017 Defence and National Security Strategic Review)[6]** *"Nuclear deterrence remains the cornerstone of [France's] defence strategy. It protects [it] from any aggression against [its] vital interests emanating from a state, wherever it may come from*	**Tlatelolco Treaty**: *"[The Parties] undertake not to use or threaten to use nuclear weapons against the Contracting Parties."* Ratified: 22 Mar. 1974 (Statement: "[France] interprets [this] undertaking... as being without prejudice to the full exercise of the right of self-defence confirmed by Article 51 of the Charter of the [UN]...."). **Rarotonga Treaty**: *"[Each Party] undertakes not to use or threaten to use any nuclear explosive device against: (a) Parties to the Treaty; or (b) any territory within the South Pacific Nuclear Free Zone for which a State that has become a Party to Protocol 1 is internationally responsible."* Ratified: 20 Sep. 1996 (Statement: "... [this] commitment... amounts to the negative security assurances given by France to non-nuclear-weapon States which are parties to the [NPT] such as they were... referred to by resolution 984 of the [UNSC]. These assurances shall not apply to States which are not parties to the [NPT].") **Bangkok Treaty**: *""Each State Party undertakes not to use or threaten to use nuclear weapons against any State Party to the Treaty. It further undertakes not to use or threaten to use nuclear weapons within the Southeast Asia Nuclear Weapon-Free Zone."* Not signed. **Pelindaba Treaty**: *"Each Protocol Party undertakes not to contribute to any act that constitutes a violation of the Treaty or of this Protocol."* Ratified: 20 Sep. 1996 (Statement: "... [this] commitment... amounts to the negative security assurances given	**Joint Declaration on Mongolia's Status as a Nuclear-weapon Free Zone (20 Sep. 2012)[7]** *"[The P5] "reaffirm, in the case of Mongolia, their respective unilateral negative security assurances as stated in their declarations issued on 5 and 6 April 1995, and referred to in Security Council resolution 984 (1995) of 11 April 1995, or as subsequently updated."*

	and whatever form it may take."	*by France to non-nuclear-weapon States which are parties to the [NPT] such as they were... referred to by resolution 984 of the [UNSC]. These assurances shall not apply to States which are not parties to the [NPT].")* **Semipalatinsk Treaty**: "*Each Party undertakes not to use or threaten to use a nuclear weapon or other nuclear explosive device against any Party to the Treaty on a nuclear-weapon-free zone in Central Asia...*". Ratified 17 Nov. 2014 (Statement: "*... [this] commitment... amounts to the negative security assurances given by France to non-nuclear-weapon States which are parties to the [NPT] such as they were... referred to by resolution 984 of the [UNSC]. These assurances shall not apply to States which are not parties to the [NPT].*")	
USSR **RUSSIAN FEDERATION**	**(Document S/1995/261 – 6 April 1995)** "*[The] Russian Federation will not use nuclear weapons against non-nuclear-weapon States parties to the [NPT], except in the case of an invasion or any other attack on the Russian Federation, its territory, its armed forces or other troops, its allies or on a State towards which it has a security commitment, carried out or sustained by such a non-nuclear-weapon State in association or alliance with a nuclear-weapon State*". **(2010 and 2014 Military Doctrine)**[8,9] "*The Russian Federation reserves the right to utilize nuclear weapons in response to the utilization of nuclear and other types of weapons of mass destruction against it and (or) its allies, and also in the event of aggression against the Russian Federation involving the use of conventional weapons when the very existence of the state is under threat.*"	**Tlatelolco Treaty**: "*[The Parties] undertake not to use or threaten to use nuclear weapons against the Contracting Parties.*" Ratified: 8 Jan. 1979 (Statement: "*Any action taken by one or more States parties to the Treaty... that is incompatible with its non-nuclear status, and the commission by one or more States parties to the Treaty of an act of aggression in support of a nuclear-weapon State or jointly with that State, will be considered by the Soviet Union as incompatible with the relevant obligations of those countries under the Treaty. In such cases the Soviet Union reserves the right to review its obligations...*"). **Rarotonga Treaty**: "*[Each Party] undertakes not to use or threaten to use any nuclear explosive device against: (a) Parties to the Treaty; or (b) any territory within the South Pacific Nuclear Free Zone for which a State that has become a Party to Protocol 1 is internationally responsible.*" Ratified: 21 Apr. 1988 (Statement: "..."*In the event of any actions undertaken by the state or states, which are parties to the... Treaty, in violation of their main*	**Budapest Memorandum (5 Dec. 1994)** "*...the Russian Federation... reaffirm[s], in the case of [Ukraine, Belarus, and Kazakhstan] [its] commitment not to use nuclear weapons against any non-nuclear-weapon State Party to the Treaty on the Non-Proliferation of Nuclear Weapons, except in the case of an attack on [itself], [its] territories or dependent territories, [its] armed forces, or [its] allies, by such a state in association or alliance with a nuclear-weapon state.*" **Joint Declaration on Mongolia's Status as a Nuclear-weapon Free Zone (20 Sep. 2012)**[10] *[The P5] "reaffirm, in the case of Mongolia, their respective unilateral negative security assurances as stated in their declarations issued on 5 and 6 April 1995, and referred to in Security Council resolution 984 (1995) of 11 April 1995, or as subsequently updated."*

		commitments under the Treaty connected with the non-nuclear status of the zone and perpetration by one or several states parties to the Treaty of an act of aggression with the support of a state having nuclear weapons or jointly with it with the use by such a state of the territory, air space, territorial sea or archipelago waters of those countries for calls by naval ships and flying vehicles with nuclear weapons on board or transit of nuclear weapons, the Soviet Union will have the right to consider itself free from the commitments undertaken..."). **Bangkok Treaty**: ""*Each State Party undertakes not to use or threaten to use nuclear weapons against any State Party to the Treaty. It further undertakes not to use or threaten to use nuclear weapons within the Southeast Asia Nuclear Weapon-Free Zone.*" Not signed. **Pelindaba Treaty**: "*Each Protocol Party undertakes not to contribute to any act that constitutes a violation of the Treaty or of this Protocol.*" Ratified: 5 Apr. 2011 (Statement: "*[Russia] will not consider itself legally bound under [this] Article... in case of an aggression against the Russian Federation, the Armed Forces of [Russia] or its other forces, against its allies or a state it is bound with by security obligations, when such an aggression is made or assisted by a non-nuclear state jointly with a nuclear state, or if the non-nuclear state is under interallied obligations to the nuclear state...*"). **Semipalatinsk Treaty**: "*Each Party undertakes not to use or threaten to use a nuclear weapon or other nuclear explosive device against any Party to the Treaty on a nuclear-weapon-free zone in Central Asia...*" Ratified 22 Jun. 2015.	
UNITED KINGDOM	**(Document S/1995/262 – 6 April 1995)** "*The United Kingdom will not use*	**Tlatelolco Treaty**: "*[The Parties] undertake not to use or threaten to use nuclear weapons against the*	**Budapest Memorandum (5 Dec. 1994)** "*...the [UK]... reaffirm[s], in*

	nuclear weapons against non-nuclear-weapon States Parties to the [NPT] except in the case of an invasion or any other attack on the United Kingdom, its dependent territories, its armed forces or other troops, its allies or on a State towards which it has a security commitment, carried out or sustained by such a non-nuclear-weapon State in association or alliance with a nuclear-weapon State. In giving this assurance the United Kingdom emphasises the need not only for universal adherence to, but also for compliance with, the [NPT]. In this context I wish to make clear that Her Majesty's Government does not regard its assurance as applicable if any beneficiary is in material breach of its own non-proliferation obligations under the [NPT]". **(National Security Strategy and Strategic Defence and Security Review 2015)**[11] *"The UK will not use, or threaten to use, nuclear weapons against any Non-Nuclear Weapons State party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). This assurance does not apply to any state in material breach of those non-proliferation obligations. While there is currently no direct threat to the UK or its vital interests from states developing weapons of mass destruction, such as chemical and biological capabilities, we reserve the right to review this assurance if the future threat, development or proliferation of these weapons make it necessary".*	*Contracting Parties."* Ratified: 11 Dec. 1969 (Statement: *"The [UK] is prepared to regard [the] undertaking... not to use or threaten to use nuclear weapons against the Contracting Parties to the Treaty as extending not only to those Parties but also to territories in respect of which the undertaking to apply the statute of denuclearisation, in accordance with Article 1 of Additional Protocol I, becomes effective."*) **Rarotonga Treaty**: *"[Each Party] undertakes not to use or threaten to use any nuclear explosive device against: (a) Parties to the Treaty; or (b) any territory within the South Pacific Nuclear Free Zone for which a State that has become a Party to Protocol 1 is internationally responsible."* Ratified: 19 Sep. 1997 (Statement: *"The [UK] will not be bound by [this] undertaking... a) in the case of an invasion or any other attack on the [UK], its dependent territories, its armed forces or other troops, its allies or a State towards which it has a security commitment, carried out or sustained by a party to the Treaty in association or alliance with a nuclear-weapon State; or b) if any party to the Treaty is in material breach of its own non-proliferation obligations under the Treaty."*). **Bangkok Treaty**: *""Each State Party undertakes not to use or threaten to use nuclear weapons against any State Party to the Treaty. It further undertakes not to use or threaten to use nuclear weapons within the Southeast Asia Nuclear Weapon-Free Zone."* Not signed. **Pelindaba Treaty**: *"Each Protocol Party undertakes not to contribute to any act that constitutes a violation of the Treaty or of this Protocol."* Ratified: 12 Mar. 2001 (Statement: *"The [UK] will not be bound by [the] undertaking under [this] Article... i) in the case of an invasion or any other attack on the [UK], its dependent territories, its*	*the case of the reaffirm[s], in the case of [Ukraine, Belarus, and Kazakhstan] [its] commitment not to use nuclear weapons against any non-nuclear-weapon State Party to the Treaty on the Non-Proliferation of Nuclear Weapons, except in the case of an attack on [itself], [its] territories or dependent territories, [its] armed forces, or [its] allies, by such a state in association or alliance with a nuclear-weapon state."* **Joint Declaration on Mongolia's Status as a Nuclear-weapon Free Zone (20 Sep. 2012)**[12] *[The P5] "reaffirm, in the case of Mongolia, their respective unilateral negative security assurances as stated in their declarations issued on 5 and 6 April 1995, and referred to in Security Council resolution 984 (1995) of 11 April 1995, or as subsequently updated."*

		armed forces or other troops, its allies or a State towards which it has a security commitment, carried out or sustained by a Party to the Treaty in association or alliance with a nuclear-weapon State, or, ii) if any party to the Treaty is in material breach of its own non-proliferation obligations under the Treaty"). **Semipalatinsk Treaty**: *"Each Party undertakes not to use or threaten to use a nuclear weapon or other nuclear explosive device against any Party to the Treaty on a nuclear-weapon-free zone in Central Asia..."* Ratified 30 Jan. 2015 (Statement: *"The [UK] will not be bound by its undertaking under [this] Article if any Party to the Treaty is in material breach of its own non-proliferation obligations under the Treaty. In this context the [UK] consider that the Treaty, including its Article 12, prohibits those actions described in its Articles 3 and 5... The [UK] note that while there is no direct threat to the [UK] or its vital interests from States developing capabilities in other weapons of mass destruction, for example chemical and biological, [it] reserve[s] the right to review [its] undertaking under [this] Article... if the future threat, development and proliferation of these weapons make it necessary").*	

UNITED STATES	**(Document S/1995/263 – 6 April 1995)** *The United States reaffirms that it will not use nuclear weapons against non-nuclear-weapon States Parties to the [NPT] except in the case of an invasion or any other attack on the United States, its territories, its armed forces or other troops, its allies, or on a State towards which it has a security commitment, carried out or sustained by such a non-nuclear-weapon State in association or alliance with a nuclear-weapon State.*	**Tlatelolco Treaty**: *"[The Parties] undertake not to use or threaten to use nuclear weapons against the Contracting Parties."* Ratified: 12 May 1971 (Statement: *"As regards the undertaking... not to use or threaten to use nuclear weapons against the Contracting Parties, the [US] would have to consider that an armed attack by a Contracting Party, in which it was assisted by a nuclear-weapon State, would be incompatible with the Contracting Party's corresponding obligations under Article 1 of the Treaty").* **Rarotonga Treaty**: *"[Each Party*	**Budapest Memorandum (5 Dec. 1994)** *"...the [US]... reaffirm[s], in the case of the reaffirm[s], in the case of [Ukraine, Belarus, and Kazakhstan] [its] commitment not to use nuclear weapons against any non-nuclear-weapon State Party to the Treaty on the Non-Proliferation of Nuclear Weapons, except in the case of an attack on [itself], [its] territories or dependent territories, [its] armed forces, or [its] allies, by such a state in association or alliance with a nuclear-weapon state."*

	(Nuclear Posture Review, February 2018)[13] *"The United States will not use or threaten to use nuclear weapons against non-nuclear weapons states that are party to the NPT and in compliance with their nuclear non-proliferation obligations. Given the potential of significant non-nuclear strategic attacks, the United States reserves the right to make any adjustment in the assurance that may be warranted by the evolution and proliferation of non-nuclear strategic attack technologies and U.S. capabilities to counter that threat. . . [S]ignificant non-nuclear strategic attacks include, but are not limited to, attacks on the US, allied, or partner civilian population or infrastructure."*	*undertakes not to use or threaten to use any nuclear explosive device against: (a) Parties to the Treaty; or (b) any territory within the South Pacific Nuclear Free Zone for which a State that has become a Party to Protocol 1 is internationally responsible."* Signed: 25 Mar. 1996, not ratified. **Bangkok Treaty**: ""*Each State Party undertakes not to use or threaten to use nuclear weapons against any State Party to the Treaty. It further undertakes not to use or threaten to use nuclear weapons within the Southeast Asia Nuclear Weapon-Free Zone.*" Not signed. **Pelindaba Treaty**: "*Each Protocol Party undertakes not to contribute to any act that constitutes a violation of the Treaty or of this Protocol.*" Signed: 11 Apr. 1996, not ratified. **Semipalatinsk Treaty**: "*Each Party undertakes not to use or threaten to use a nuclear weapon or other nuclear explosive device against any Party to the Treaty on a nuclear-weapon-free zone in Central Asia...*" Signed: 6 May 2014, not ratified.	**Joint Declaration on Mongolia's Status as a Nuclear-weapon Free Zone (20 Sep. 2012)**[14] *[The P5] "reaffirm, in the case of Mongolia, their respective unilateral negative security assurances as stated in their declarations issued on 5 and 6 April 1995, and referred to in Security Council resolution 984 (1995) of 11 April 1995, or as subsequently updated."*

II. STATES NOT PARTY TO THE NON-PROLIFERATION TREATY (NPT)

State	Unilateral Declarations
DPRK	(Press Release by the DPRK Government, 6 Jan. 2016)[15] *"The DPRK, a responsible nuclear weapon state, will neither be the first to use nuclear weapons nor transfer relevant means and technology under any circumstances as already declared as long as the hostile forces for aggression do not encroach upon its sovereignty."* (Speech by Kim Jung-un to the Workers' Party Congress, 7 May 2016)[16] *"Our republic is a responsible nuclear state that, as we made clear before, will not use nuclear weapons first unless aggressive hostile forces use nuclear weapons to invade on our sovereignty."*
INDIA	(Cabinet Committee on Security Review of Nuclear Doctrine, 4 Jan. 2003)[17] *"India's nuclear doctrine can be summarized as follows: 1) Building and maintaining a credible minimum deterrent; 2) A posture of "No First Use": nuclear weapons will only be used in retaliation against a nuclear attack on Indian territory or on Indian forces anywhere; 3) Nuclear retaliation to a first strike will be massive and designed to inflict unacceptable damage. 4) Nuclear retaliatory attacks can only be authorised by the civilian political leadership through the Nuclear Command Authority. 5) Non-use of nuclear weapons against non-nuclear weapon states. 6) However, in the event of a major attack against India, or Indian forces anywhere, by biological or chemical weapons, India will retain the option of retaliating with nuclear weapons. . ."* (Statement to the Conference on Disarmament, 7 May 2015)[18] *"As part of our doctrine of credible minimum nuclear deterrence, India has espoused the policy of 'No First Use' against nuclear weapon states and non-use against non-nuclear weapon states. We are prepared to convert these undertakings into multilateral legal arrangements."*
ISRAEL	[Israel does not express public positions on this issue and abstains on the UNGA resolution calling for an international arrangement on NSAs]
PAKISTAN	(Statement to the Conference on Disarmament, 28 June 2017)[19] *"As a responsible nuclear-weapon state, Pakistan has given the unilateral unconditional pledge not to use or threaten to use nuclear weapons against any state not possessing nuclear weapons, and we are ready to transform this pledge into a multilateral, legally binding international instrument."*

[1] United Nations, General Assembly, Document A/49/783, 11 Dec. 1994 (http://undocs.org/A/49/783).

[2] United Nations, General Assembly, Document A/50/86, 28 Feb. 1995 (http://www.un.org/ga/search/view_doc.asp?symbol=A%2F50%2F86&Submit=Search&Lang=E).

[3] United Nations, Letter dated 20 September 2012 of the Permanent Representative of France, the People's Republic of China, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, and the United States of America addressed to the Secretary-General, Document A /67/393–/2012/721, 20 Sep. 2012, http://repository.un.org/bitstream/handle/11176/17552/A_67_393%3bS_2012_721-EN.pdf?sequence=24&isAllowed=y.

[4] ExportLaw Blog, "Security Assurances" (https://www.exportlawblog.com/docs/security_assurances.pdf).

[5] French Embassy to the United Kingdom, "France Will Not Lower Its Nuclear Guard, Vows President," 2 March 2015, http://www.ambafrance-uk.org/France-will-not-lower-its-nuclear).

[6] French Government, "Defence and National Security Strategic Review 2017", https://www.defense.gouv.fr/layout/set/popup/content/download/520198/8733095/version/2/file/DEFENCE+AND+NATIONAL+SECURITY+STRATEGIC+REVIEW+2017.pdf.

[7] United Nations, Letter dated 20 September 2012 of the Permanent Representative of France, the People's Republic of China, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, and the United States of America addressed to the Secretary-General, Document A /67/393–/2012/721, 20 Sep. 2012, http://repository.un.org/bitstream/handle/11176/17552/A_67_393%3bS_2012_721-EN.pdf?sequence=24&isAllowed=y.

[8] Carnegie Endowment for International Peace, "Russia's Military Doctrine", 2010 (http://carnegieendowment.org/files/2010russia_military_doctrine.pdf).

[9] Russian Embassy in London, "The Military Doctrine of the Russian Federation", https://rusemb.org.uk/press/2029

[10] United Nations, Letter dated 20 September 2012 of the Permanent Representative of France, the People's Republic of China, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, and the United States of America addressed to the Secretary-General, Document A /67/393–/2012/721, 20 Sep. 2012, http://repository.un.org/bitstream/handle/11176/17552/A_67_393%3bS_2012_721-EN.pdf?sequence=24&isAllowed=y.

[11] UK Government, "National Security Strategy and Strategic Defence and Security Review 2015," Cm 9161, November 2015 (www.gov.uk/government/uploads/system/uploads/attachment_data/file/555607/2015_Strategic_Defence_and_Security_Review.pdf)

[12] United Nations, Letter dated 20 September 2012 of the Permanent Representative of France, the People's Republic of China, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, and the United States of America addressed to the Secretary-General, Document A /67/393–/2012/721, 20 Sep. 2012, http://repository.un.org/bitstream/handle/11176/17552/A_67_393%3bS_2012_721-EN.pdf?sequence=24&isAllowed=y.

[13] US Department of Defense, "Nuclear Posture Review 2018" (https://media.defense.gov/2018/Feb/02/2001872886/-1/-1/1/2018-NUCLEAR-POSTURE-REVIEW-FINAL-REPORT.PDF).

[14] United Nations, Letter dated 20 September 2012 of the Permanent Representative of France, the People's Republic of China, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, and the United States of America addressed to the Secretary-General, Document A /67/393–/2012/721, 20 Sep. 2012, http://repository.un.org/bitstream/handle/11176/17552/A_67_393%3bS_2012_721-EN.pdf?sequence=24&isAllowed=y.

[15] Lizzie Dearden, "North Korea announces 'successful hydrogen bomb test' as UN Security Council calls emergency meeting", *The Independent*, 6 Jan. 2016.

[16] Eric Tarmadge, "North Korea will not use its nuclear weapons first, Kim Jong-un tells Congress", The Independent, 8 May 2016.

[17] Indian Ministry of External Affairs, 'The Cabinet Committee on Security reviews operationalization of India's nuclear doctrine', 4 Jan. 2003 (http://mea.gov.in/press-releases.htm?dtl/20131/The_Cabinet_Committee_on_Security_Reviews_perationalization_of_India s_Nuclear_Doctrine+Report+of+National+Security+Advisory+Board+on+Indian+Nuclear+Doctrine).

[18] Delegation of India to the Conference on Disarmament, "Statement on Negative Security Assurances by Ambassador DB Venkatesh Varma, Permanent Representative of India to the CD, in the CD Plenary", 7 May 2015 (http://meaindia.nic.in/cdgeneva/?3910?000).

[19] Delegation of Pakistan to the Conference on Disarmament, "Working Group on the Way Ahead, Negative Security Assurances, 28 June 2017" (http://pakistanmission-un.org/?p=1851).

Conference on Disarmament

4 September 2018

Original: English

Subsidiary Body 5

Report

I. Mandate and scope of the Subsidiary Body 5

1. At the 1442nd plenary meeting on 16 February 2018 the Conference on Disarmament adopted the decision CD/2119 to establish five subsidiary bodies with a mandate to pursue the following areas and any other areas agreed by the subsidiary bodies, in accordance with the rules of procedure:

(a) To reach an understanding on the areas of commonalities in the Conference on Disarmament by taking into consideration all relevant views and proposals past, present and future;

(b) Deepening technical discussions and broadening areas of agreement, including through the participation, in accordance with the rules of procedure, of relevant experts;

(c) Consider effective measures, including legal instruments for negotiations.

2. The Conference decided that Subsidiary Body 5 will consider the following issues:

- New types of weapons of mass destruction and new systems of such weapons; radiological weapons;
- Comprehensive programme of disarmament;
- Transparency in armament; and
- Emerging and other issues relevant to the substantive work of the Conference could also be considered, in accordance with decision CD/2119.

II. Organization of work

3. At the 1455th plenary meeting of the Conference, on 27 March 2018, the Conference on Disarmament by decision CD/2126 approved the schedule of meetings of the Subsidiary body 5.

4. In accordance with the decision CD/2126 the Subsidiary body 5 held 7 meetings.

5. On May 17 and 18, 2018, the Member States were provided with an opportunity to have general exchange of views on the items under consideration.

6. On June 19 – 21, 2018, thematic in-depth discussions were held with the participation of invited experts.

7. On August 23, 2018, general debate on the outcomes of the work of the Subsidiary body 5 was held.

8. The following experts took part in the thematic in-depth discussions:

- on science and technology developments that can lead to new types of WMD or consequences comparable to the use of WMD – Ambassador Sergey Batsanov (Pugwash Conferences), Dr. Pavel Podvig (UNIDIR), Dr. Filippa Lentzos (King's College, London);
- on weaponization of artificial intelligence and cyber security – Ambassador Amandeep Singh Gill (Chair of the GGE on LAWS, CCW), Ms. Kerstin Vignard (UNIDIR), Dr. Jean-Marc Rickli (GCSP);
- on risk of obtaining WMDs by non-state groups – Dr. Jean Pascal Zanders (The Trench);
- on promoting comprehensive disarmament and transparency (including strengthening confidence-building measures) – Ms. Silvia Mercogliano (UNODA, Geneva Branch), Mr. Mark Finaud (GCSP), Dr. Mohammad Hassan Daryaei (CTBTO Preparatory Commission).

III. Outcomes of discussions

A. Developments in science and technology

9. Some delegations stated that science and technology developments at the current moment cannot lead to emerging of new types of WMDs. However, future prospective of development of new weapons with characteristics, comparable to nuclear or chemical weapons, was outlined by some delegations during the discussions.

10. Some delegations suggested that there should be better oversight and regulations on scientific research, and called for a code of conduct for scientists. In this context some delegations called for evaluations of developments in science and technology, which have an impact on international security.

11. Some other delegations suggested that the CD could examine ways of taking concrete action to monitor the relevant developments in science and technologies in light of the UN GA Resolution A/RES/72/28 "Role of science and technology in the context of international security and disarmament".

12. The following ideas were outlined by some delegations as well:

- on establishment of a review board to assess the impact of science and technology,
- on development and adoption of international binding agreements to ban the creation of new types of weapons of mass destruction through new scientific discoveries.

B. ICT and cyber security

13. On ICT and Cyber Security issues some delegations noted that significant progress had already been made on these issues in the context of the Group of Government Experts (GGE) on Information and Communication Technology in the Context of International Security, citing reports from 2010, 2013 and 2015, endorsed by the United Nations General Assembly.

14. Despite the lack of consensus in the previous GGE, established by General Assembly resolution 70/237, delegations noted this did not diminish the importance of the 2010, 2013, and 2015 GGE reports and encouraged the continued implementation of the recommendations contained in those reports.

15. Some Member States noted that the 2015 GGE in its consensus report affirmed (A/70/174) the applicability of international law, including the United Nations Charter, to the States' activities in cyber space. Other delegations noted that existing law, although applicable, is not sufficient, therefore a multilateral response is needed to develop new international law.

16. Some Member States expressed a desire to establish a new round of the GGE with a mandate to continue the work of that process, build upon the previous three GGE reports, and encourage the existing reports' implementation by all Member States.

17. The Conference was also reminded of an initiative to convene a small group under the auspices of the UNGA First Committee to review implementation of the recommendations contained in the 2010, 2013, and 2015 GGE reports and develop ideas to support further implementation of the recommendations and present a consensus report to the 75th General Assembly in 2020, based on input obtained in regular, inter-sessional consultations with the wider membership and other interested stakeholders.

18. Some delegations noted that the conditions for negotiating relevant international norms are emerging and called for the development of a legally binding framework to be negotiated within the framework of the United Nations.

19. Some delegations added that despite its unique characteristics, international security in cyber space is essentially not different from traditional arms control and the CD is the appropriate platform for discussing the issue.

20. Other delegations noted that they do not support negotiations of an arms control regime for cyber space, adding that the disarmament paradigm is not appropriate for a "dual use" environment such as cyber space.

21. A view was expressed that efforts in other fora shouldn't be affected by discussions on cyber in the CD. Some delegations did not believe there is currently any need to consolidate discussions in other fora under a single platform or look to include these issues as a new agenda item in the CD.

22. Some delegations added that it is the legitimate right of any State to research and develop offensive cyber capabilities for use in accordance with international law.

23. In response to arguments in favor of the legitimate right of States to develop offensive cyber capabilities, it was mentioned, that there is no definition to what constitutes a cyber weapon, and that international law applies to States behavior in the ICT environment, particularly in relation to the threat and use of force, while noting the lack of consensus on how to apply the right to self-defense according to Article 51 of the UN Charter in response to what some States may describe as cyber-attack.

24. ICT and cyber security issues were evaluated by some delegations as cross-cutting and affecting, directly or indirectly, many aspects of disarmament and international security, including nuclear deterrence, space security, transparency and verification. Concerns about risks, that might be posed by interlinkage between ICTs and WMDs were expressed as well.

C. Weaponization of Artificial Intelligence (AI)

25. While discussing weaponization of artificial intelligence a number of delegations noted that the weaponization of AI, including the development of LAWS reduced the role of humans with regard to decision making on the use of lethal force in warfare, thereby lowering the threshold for the use of force. Some delegations called for a pre-emptive ban on LAWS as a protocol under the Convention of Certain Conventional Weapons (CCW) and a moratorium on the development of LAWS pending the negotiation of such a protocol.

26. Other delegations called a ban on LAWS premature as AI could contribute to reduce civilian casualties and noted that the private sector is making great strides in this field. It was added that the time is not yet ripe for the negotiation of a political declaration or legally binding instrument.

27. Some Member States noted risks of non-state actors obtaining or weaponizing AI and called for the development of international norms. It was underlined that existing law is applicable, while the challenges in applying existing law to new phenomena, which could require the development of new legal norms, were noted.

28. Some delegations were of the view that the CCW is the most appropriate forum to address the issue of LAWS and warned against duplication in the CD. They noted the ongoing work in the Group of Governmental Experts on Lethal Autonomous Weapons Systems (GGE on LAWS) under the CCW. New weapons systems are by definition evolving, and pertain to areas of knowledge on which the expertise must be deepened. Necessity for maturation and therefore in-depth informal discussions was outlined as well.

29. Some delegations expressed the view that LAWS and AI issues could also be discussed in the CD without duplication.

30. Some delegations stated that issues of weaponization of artificial intelligence were found cross-cutting and affecting, directly or indirectly, many aspects of disarmament and international security, including nuclear deterrence and space security.

D. Risks of obtaining Weapons of Mass Destruction (WMD) by non-state actors

31. While there were concerns expressed with regard to other actors that may have potential malicious application of dual-use technologies, the main focus of discussions was on WMD-terrorism.

32. Some delegations expressed their support for the proposal to draft an International Convention for the Suppression of Acts of Chemical and Biological Terrorism (ICCBT). It was argued by them that WMD-terrorism has become a tragic reality and added that existing mechanisms such as Security Council Resolution 1540, the Chemical Weapons Convention (CWC) and Biological Weapons Convention (BWC) are not sufficient to counter the threat stemming from non-state actors.

33. Other delegations reaffirmed their reservations on or opposition to the proposed ICCBT and argued that a new convention is unnecessary and would duplicate existing efforts ongoing under such agreements as the CWC, BWC, and Security Council resolution 1540 (2004) to address the non-state actor threat. Any efforts on this matter need to take into account and to preserve the authority and credibility of existing instruments.

34. Some delegations, while not commenting on the ICCBT, noted the risks stemming from WMD-terrorism and underlined the need to secure sensitive materials.

E. General and complete disarmament, transparency

35. Support to the general and complete disarmament under effective international control was expressed at the meetings.

36. It was argued by some, that transparency and confidence building measures are no substitute for legally-binding instruments. Some delegations argued that nuclear weapon States should attach high importance to implementation of transparency measures on their nuclear weapons arsenals in light of the priority to achieve and maintain a nuclear weapon free world.

37. There were calls by some delegations for a new non-discriminatory and equitable export control regime open to all States, which in their views is an appropriate way of dealing with what they consider the lowered threshold for Research and Development of technology whereby States and entities obtain the relevant capacities to develop and maintain sensitive technologies and materials.

IV. Way forward

38. The discussions revealed very different approaches of Member States on how to address these issues, as well as on possibilities to discuss these issues within the CD and on the possible role of the Conference.

39. Therefore, notwithstanding, that none of the issues under consideration gained necessary level of maturity to start negotiations or were even supported as negotiations, the conditions for more in-depth discussions are emerging.

40. This resulted in a view, that the issues, related to mandate and scope of the Subsidiary Body 5 could be addressed further.